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JAN - 3 2007

RICH
CLERK
NORTHERN DISTRICT COURT
SAN JOSE CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
JOSE LITO CAMPOS,)
STEVEN CHAVEZ DURAN,)
Defendants)

No.: CR 06-70783 HRL
70782 HRL

PARTIES STIPULATION AND
[PROPOSED] ORDER REQUESTING
WAIVER AND EXCLUSION OF TIME

The parties last appeared before the Honorable Howard R. Lloyd on December 14, 2006 for preliminary hearing. At that time, the parties requested an extension of time for preliminary hearing in order to explore the possibility of a pre-indictment resolution to the matter.

On December 14, 2006, with the agreement of the parties in open court and with the consent of the defendants, the Court entered an order setting a new preliminary hearing date on January 4, 2007 at 9:30 a.m., extending the time for the preliminary hearing under Federal Rule of Criminal Procedure 5.1, and extending the 30-day time period for indictment and excluding time under the Speedy Trial Act from December 14, 2006 to January 4, 2007.

In the interim, however, the government received discovery only on December 28, 2006. The discovery consists of thirteen compact diskettes containing monitored phone calls and agency reports. The government copied and provided this discovery to defense counsel on December 28,

1 2006. The parties agree that an additional continuance of time is appropriate given that defense
2 counsel cannot review the discovery, consult with their clients and determine whether a pre-
3 indictment resolution may be reached, between December 28, 2006 and January 4, 2007.
4 Therefore, the parties jointly request that the matter be continued one additional time to January
5 18, 2007 at 9:30 a.m. for preliminary hearing.

6 With the agreement of the parties and with the consent of the defendants, the Court enters
7 this order setting a new preliminary hearing date on January 18, 20076, at 9:30 a.m. before the
8 duty magistrate judge, extending the time for the preliminary hearing under Federal Rule of
9 Criminal Procedure 5.1, and further extending the 30-day time period for indictment and
10 excluding time under the Speedy Trial Act from January 4, 2007 to January 18, 2007. The
11 parties agree, and the Court finds and holds, as follows:

12 1. Duran has been released on bond in this case, which has been charged by complaint.
13 Campos has been detained in this matter. Counsel for the United States has provided discovery
14 to defense counsel, who will review the evidence to determine whether a pre-charge disposition
15 is appropriate. Only after evaluating the evidence will counsel be in a position to evaluate any
16 disposition. .

17 2. Taking into the account the public interest in the prompt disposition of criminal cases, the
18 parties agree, and the Court holds, that these grounds are good cause for extending the time limits
19 for a preliminary hearing under Federal Rule of Criminal Procedure 5.1 and for extending the 30-
20 day time period for indictment and excluding time under the Speedy Trial Act. Failure to grant
21 the continuance would deny defense counsel the reasonable time necessary for effective
22 preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv).
23 The Court also finds that the ends of justice served by excluding the period from January 14,
24 2007 to January 18, 2007 outweigh the best interest of the public and the defendants in a speedy
25 trial. Id. § 3161(h)(A).

26 3. Accordingly, and with the consent of the defendants, the Court (1) vacates the January 14,
27 2007, preliminary hearing date and sets a preliminary hearing date before the duty magistrate
28 judge on January 18, 2007 at 9:30 a.m., and (2) orders that the period from January 4, 2007 to

1 January 18, 2007, be excluded from the time period for preliminary hearings under Federal Rule
2 of Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. §
3 3161(h)(8)(A) & (B)(iv).

4 STIPULATED:

5 DATED: 1/3/2007

/s/

6 CYNTHIA LEE
Attorney for Jose L. Campos

7 DATED: 12/29/2006

/s/

8 JERRY FONG
9 Attorney for Steven C. Duran

10 DATED: 12/28/2006

/s/

11 SUSAN R. JERICH
12 Assistant United States Attorney

13 IT IS SO ORDERED.

14 DATED: 1/3/07


Howard R. Lloyd RICHARD SEEBOHR
United States Magistrate Judge